

MINUTES
TEXAS BOARD OF PROFESSIONAL ENGINEERS
REGULAR QUARTERLY BOARD MEETING
1917 SOUTH INTERSTATE 35
AUSTIN, TX 78741
FEBRUARY 13, 2014 – 10:30 AM

Call to Order. Daniel O. Wong, Ph.D., P.E., Presiding Officer called the Texas Board of Professional Engineers Regular Quarterly Meeting to order at 10:30 am at the Texas Board of Professional Engineers, 1917 South Interstate 35, Austin, TX. (NOTE: all votes are unanimous unless noted.)

1. Roll Call and Welcome Visitors.

Daniel O. Wong, Ph.D., P.E.

Chair

James "Jim" Greer, P.E.

Vice Chair--Excused Absence

Elvira Reyna

Secretary - Public Member

Edward Summers, Ph.D.

Treasurer - Public Member

Carry Ann Baker

Public Member

Lamberto "Bobby" Ballí, P.E.

Member

Sina Nejad, P.E., PEng.

Member

R. Kyle Womack, P.E.

Member

Sockalingam "Sam" Kannappan, P.E.

Member

A quorum was present. Ms. Veena Mohan, Assistant Attorney General, was present to provide legal counsel to the Board. Mr. Edmundo Gonzalez, P.E., Mr. Jose I. Guerra, P.E., and Govind Nadkarni, P.E., Emeritus Board Members, were present.

The following staff members were present:

Lance Kinney, P.E.

Executive Director

David Howell, P.E.

Deputy Executive Director/Acting Director of Licensing

C.W. Clark, P.E.

Director of Compliance & Enforcement

Jeff Mutscher

Director of Finance

Dewey Helmcamp, III JD

Staff Attorney

Dorothy Gonzales

Executive Assistant

Visitors. Trish Smith, Texas Society of Professional Engineers; Joe Luke, P.E., ASCE.

2. **Public Comment.** None.

3. **Consent Agenda.**

(The following items may be acted upon under Consent Agenda and are marked with an asterisk* on the Regular Quarterly Board Meeting Agenda)

- November 20, 2013, Licensing Committee Minutes
- November 21, 2013, Enforcement Committee Minutes
- November 21, 2013, Policy Advisory Opinion Committee Minutes
- November 21, 2013, Regular Quarterly Board Meeting Minutes
- Administrative Reports and Outstanding Administrative Penalties and Dismissed Cases, Cease and Desist Order, Agreements, Injunctions/Default Judgments
- Licensing Applications.

It was MOVED/SECONDED (Ballí/Summers) to approve the Consent Agenda as presented. A vote was taken and the MOTION PASSED.

Discuss and Possibly Approve Board Minutes:

4. ***(Consent Agenda)** Discuss and possibly approve minutes of the November 21, 2013, Regular Quarterly Board Meeting Minutes

Discuss and Possibly Accept Committee Minutes:

5. ***(Consent Agenda)** November 20, 2013, Licensing Committee Minutes
6. ***(Consent Agenda)** November 21, 2013, Enforcement Committee Minutes
7. ***(Consent Agenda)** November 21, 2013, Policy Advisory Opinion Committee Minutes
- Agenda items 4 through 7 were approved under Consent Agenda, Item #3 above.

Discuss and Possibly Act on the following agenda items (8-19):

8. Board Members' Activity Reports.

- Baker
- Ballí
- Greer
- Kannappan
- Nejad
- Reyna
- Summers
- Womack
- Wong

9. Emeritus Members.

- Gonzalez
- Guerra
- Nadkarni

Dr. Wong commented that exhibits for agenda items 8 and 9 are included for review. No action required.

10. Budget.

- **FY14 1st Quarter Budget Report.**

Mr. Mutscher reviewed the FY14 first quarter budget report exhibit with the Board members. He reminded Board members that the proposed budget will be included in the May Board meeting materials for discussion.

Discuss and Possibly Act on Issues Regarding Committee Reports or Items on the Committee Agendas:

11. Licensing Committee.

- **Personal Appearances from Licensing Applicants.**

It was MOVED/SECONDED (Ballí/Kannappan) to approve Emile Lang and Joseph Mangrem to take the PE exam; approve Michael Shelton, Jennifer Park, and Gregory Andrulis to be licensed in Texas; deny the appeals of Charles Mansfield and Md. Zahid Hossain; and deny the appeal of Ziad Kaakouch but allow him to take the PE exam. A vote was taken and the MOTION PASSED.

- **Criminal History Record Check. Taken out of order.**

Mr. Kinney discussed with the Board members issues that have arisen with the company providing fingerprinting services for the mandated Criminal History Record Check. He added that issues addressed to the Board are being discussed directly with the regional manager of the fingerprint vendor for the Department of Public Safety (DPS), MorphoTrust. Mr. Kinney was directed by the Board to write a letter to DPS regarding the poor service of their selected vendor from the Board Chair and Executive Director on behalf of the Board outlining the issues and requesting a response. The letter should also be shared with other Texas Boards dealing involved in using this service.

It was MOVED/SECONDED (Summers/Kannappan) to authorize the Executive Director to write a letter on behalf of the Board addressing issues regarding the fingerprinting services. A vote was taken and the MOTION PASSED.

- **International Agreement.**

Mr. Kinney gave a report on the signed Memorandum of Understanding (MOU) with Japan, which was included as an exhibit. He also shared that Board staff and a Committee comprised of the Board Chair, Board Member Balli, and Emeritus Member Nadkarni met with the Korean delegation to discuss the possibility of a Mutual Recognition Agreement (MRA) and an MOU with the Korean Professional Engineers Association (KPEA). He added that a draft MOU between Korea and the Board is attached for review. Staff is requesting approval to move forward with the negotiations on the MRA and to approve the draft MOU.

It was MOVED/SECONDED (Ballí/Kannappan) recommend approval of the MOU with KPEA. A vote was taken and the MOTION PASSED.

12. Policy Advisory Opinion Committee.

- Discussion of stakeholder meeting and possible draft of EAOR #34 – Industry Exemption
- Discussion of stakeholder meeting and possible draft of EAOR #36 – Construction Management

Ms. Baker informed the Board members that the PAOC discussed both the Industry Exemption and Construction Management advisory requests and determined that staff will gather all the information from the recent stakeholders' meetings from both of these request and provide to the Committee members. Staff working with the Board liaisons will provide proposed draft responses at the next scheduled meeting. The Committee also discussed and accepted a policy advisory request regarding Public Rights of Way and Private Utility Companies. The Committee directed staff to research and provide information at the next scheduled meeting. No action is required from the Board. Ms. Baker also reported that there was a discussion at the Committee meeting regarding the possible proposal of a new rule that would require a periodic review of existing policy opinions to ensure that they are still relevant and correct. Staff was directed to research for the possibility of having a policy in place instead of a new rule. Staff will provide a recommendation at the next scheduled meeting.

Discuss and Possibly Act on Reports or Items reported by the Executive Director:

13. Executive Director's Report.

- **Activity Report.** Mr. Kinney reported that his activity report was included if anyone had any questions.
- **NCEES.**
 - **SZ Secretary/Treasurer Nomination of Sam Kannappan, P.E.**
Mr. Kinney shared that Mr. Kannappan is up for re-election of the SZ Secretary/Treasurer position, and requires Board support. Staff is requesting and recommending the approval of his nomination.

It was MOVED/SECONDED (Womack/Ballí) to approve the nomination of Sam Kannappan, P.E., Board member for the NCEES Southern Zone Secretary/Treasurer position. A vote was taken and the MOTION PASSED.
- **2014 NCEES Award Nominations.** Mr. Kinney reported that nominations were being accepted by NCEES at this time.
- **2014 SZ Meeting-Charleston, SC.** Mr. Kinney commented that the agenda for the upcoming Southern Zone meeting in April is included for information only.
- **Journey Toward Excellence.** Mr. Kinney reported that strategic projects have kicked off for the year. The agency was also recognized by the State Employee Charitable Campaign (SECC) for having the largest donation per capita for an agency of this size. This is how the Board staff engages as part of community service.
- **Survey of Employee Engagement.** Mr. Kinney reviewed information from the survey which was included as an exhibit. He thanked staff for all their hard work.
- **Criminal History Record Check (CHRC) Communication.**
- **Outreach.** Mr. Kinney reported that staff is traveling all over Texas providing Ethics and Licensing presentations. He added that the Ethic Webinars have become very popular and have already been scheduled for 2014.
 - **Upcoming Webinar March 6, 2014.** Registration is open.
 - **Kudos.** Included for Board members to review.
- **Staff Attorney Report.** Mr. Helmcamp commented that the staff attorney report is included as an exhibit. There are no pending cases. No action required.
 - SOAH Cases
 - Suits Against the Board
 - Status of Court Cases (Injunctions)

Discussion of possible rule change:

14. Discussion and possible rule change to §137.63 (c), (5), Engineers Responsibility to the Profession.

Mr. Helmcamp reported that the Board received a letter from an engineer requesting the clarification of §137.63 (c) (5) and possible rule change. By law, the Board must accept the request within 60 days. Staff recommends the Board accept the proposal for staff to research and provide a report at the May Board

meeting. The request for clarification is the acceptance of payment for one job from more than one source.

It was MOVED/SECONDED (Summers/Kannappan) to accept the request for staff to research and provide a report at the May Board meeting. A vote was taken and the MOTION PASSED.

Discuss and Possibly Act on Enforcement/Disciplinary Matters:

15. *(Consent Agenda) Administrative Reports, Outstanding Administrative Penalties Dismissed Cases, Cease and Desist Order, Agreements, Injunctions/Default Judgments.

Agenda item #15 was approved under Consent Agenda, see agenda item #3 above.

16. Agreed Board Order.

1. B-34457 (Baker)

It was MOVED/SECONDED (Kannappan/Nejad) to approve the Board Orders as submitted. A vote was taken and the MOTION PASSED 7 to 1; Ms. Baker abstained from voting.

17. Consent Orders.

SOAH Result

(None)

Informal Reprimands (In accordance with Board Rule 139.31(b) individual names are not listed)

(None)

Non-Practice Violations

(None)

Practice Violations

2. Mike F. Padula, P.E. – D-33476

Sanctions Against Non-License Holders

3. John A. Avolio, Jr. – E-34776

Firm Registrations/Sole Proprietorship Sanctions

4. Babbs Engineering Consultants, L.L.C. – B-34205

It was MOVED/SECONDED (Nejad/Summers) to approve the Consent Agendas as submitted. A vote was taken and the MOTION PASSED.

Discuss and Possibly Act on Licensing Applications requiring board ruling:

18. *(Consent Agenda) Licensing Applications.

Vote or Reconfirm Votes Pursuant to Board Rule §133.87:

Approved for Exams

Approved for Licensure

Firms Approved

Not Approved for Licensure

Exams Not Approved

Waivers – Both

Waivers – FE

Agenda item #18 was approved under Consent Agenda, see agenda item # 3 above.

Discuss and Possibly Act on Other Matters

19. Issues to consider for future meeting.

Mr. Womack suggested the Board members consider having a strategic planning session. Dr. Wong added that he and Mr. Kinney will work on coordinating this workshop.

Adjourn.

It was MOVED/SECONDED (Reyna/Summers) to adjourn the meeting. A vote was taken and the MOTION PASSED.

Date Board approved the minutes as submitted:

May 21, 2014